

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL SMITH,

Plaintiff,

v.

TAMMY NIKULA, DENNIS CHERRY,
PAT GLEBE, JOHN DOE, JANE DOE,

Defendants.

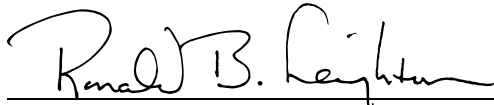
No. C12-5774 RBL/KLS

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and **ORDER:**

- (1) The Court adopts the Report and Recommendation.
- (2) Defendants' motion to dismiss (ECF No. 12) is **GRANTED in part as to** Plaintiff's due process claim and the due process claim is **Dismissed with Prejudice**. The remainder of Defendants' motion to dismiss (ECF No. 12) is **DENIED**. Plaintiff may submit an amended complaint within twenty days of the Court's Order to plead facts, if any, to support his First Amendment (retaliation), Eighth Amendment (cruel and unusual punishment), and negligent hiring, training, and supervision claims.
- (3) This matter is re-referred to the Hon. Karen L. Strombom for further proceedings.
- (4) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants, and to the Hon. Karen L. Strombom.

DATED this 26th day of February, 2013.



RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE